

1993

State of Utah v. Ralph Stoddard : Brief of Appellant

Utah Court of Appeals

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Donald J. Eyre, Jr.; Attorney for Appellee.

Ralph Stoddard.

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APPEALS

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Salt Lake City, Utah 84115

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DOCKET NO. 930511 CA

IN THE UTAH COURT OF APPEALS

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STATE OF UTAH
PLAINTIFF/APPELLEE

CASE NO. 930511-CA

v.

PRIORITY 2

RALPH STODDARD
ACCUSED/APPELLANT

APPELLANT'S BRIEF

Appeal from Final Judgment issued in the
Fourth Circuit Court of Juab County, State of Utah,
the Honorable John Backlund presiding,
filed August 5, 1993.

Ralph Stoddard
P.O. Box 65415
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COURT OF APPEALS

Ralph Stoddard
P.O. Box 65415
Salt Lake City, Utah 84115

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JURISDICTIONAL STATEMENT

This appeal is taken from entry of Final Judgment filed 5 August 1993, in the Juab Fourth Circuit Court, Juab County, State of Utah. The Court of Appeals has jurisdiction in this matter pursuant to Utah Code Ann. § 78-2a-3(2)d (1992), and Utah Rules of Appellate Procedure, Rule 3(a) and 4(a).

ISSUES PRESENTED

1. The trial court erred in allowing Appellee to amend the information on the day of trial, substantially prejudicing Appellant's rights. This issue is a question of law, reviewable for correctness, affording no deference to the trial court's interpretations. Utah Const., art. I, sec. 12. State v. Ramon, 736 P.2d 1059 (Utah App. 1987). State v. Sousa, 846 P.2d 1313, 1317 (Ut.App. 1993).

2. The trial court erred in summarily dismissing Appellant's affidavit of bias and prejudice filed prior to trial. The court committed reversible error by failing to follow the procedures in Rule 29 of the Utah Rules of Criminal procedure. This issue is a question of law, reviewable for correctness, affording no deference to the trial court's interpretations. State v. Sousa, 846 P.2d 1313, 1317 (Utah App. 1993). State v. Neeley, 748 P.2d 1094, (Utah 1988).

3. The insufficient information filed at trial denied the Appellant substantial rights guaranteed in Article I, section 12 of the Utah State Constitution, by not setting forth the essential elements of the offense sought to be charged. The ambiguous

language of the information confused the Appellant thus inhibiting his ability to prepare an adequate defense. This issue is a question of law reviewable for correctness, affording no deference to the trial court's interpretations. See State v. Sousa, 846 P.2d 1313, 1317 (Ut.App. 1993). See U.S. v. Kilpatrick, 821 F.2d 1456 (10th Cir. 1987).

4. The court erred by using an overbroad misapplication of Utah statutes to obtain a conviction of the Appellant. The court improperly applied statute § 41-2-104 Utah Code Ann. (1992), and failed to construe the statute so as to avoid constitutional infirmities of due process requirements. This issue is a question of law reviewable for correctness, affording no deference to the trial court's interpretations. Chris & Dick's Lumber & Hardware v. Tax Commission, 791 P.2d 511, (Ut. 1990).

5. The court erred in denying the Appellant due process guarantees pursuant to Article I, section 7, of the Utah State Constitution, the doctrine of fundamental fairness violated. This issue is a question of law reviewable for correctness, affording no deference to the trial court's interpretations. State v. Sousa, 846 P.2d 1313, 1317 (Ut.App. 1993). Wiscombe v. Wiscombe, 744 P.2d 1024, 1025 (Ut.App. 1987).

DETERMINATIVE PROVISIONS

1. "No person shall be deprived of life, liberty, or property, without due process of law."

Utah Const., art. I, sec. 7.

2. "All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay; and no person shall be barred from prosecuting or defending before any tribunal in this State, by himself or counsel, any civil cause to which he is a party."

Utah Const., art. I, sec. 11.

3. "In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof..."

Utah Const., art. I, sec. 12.

4. "Offenses heretofore required to be prosecuted by indictment, shall be prosecuted by information after examination and commitment by a magistrate, unless the examination be waived by the accused with the consent of the State, or by indictment, with or without such examination and commitment..."

Utah Const., art, I, sec. 13.

5. "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation, particularly describing the place to be searched, and the person or thing to be seized."

Utah Const., art, I, sec. 14.

6. Rule 29. Disability and disqualification of a judge or change of venue.

(c) If the prosecution or a defendant in any criminal action or proceeding files an affidavit that the judge before whom the action or proceeding has a bias or prejudice, either against the party or his attorney or in favor of any opposing party to the suit, the judge shall proceed no further until the challenge is disposed of.

(d) If the challenged judge questions the sufficiency of the allegation of disqualification, he shall enter an order directing that a copy be forthwith certified to another named judge of the same court or of a court of like jurisdiction, which judge shall then pass upon the legal sufficiency of the allegations. If the challenged judge does not question the legal sufficiency of the affidavit, or if the judge to whom the affidavit is certified finds that it is legally sufficient, another judge shall be called to try the case or to conduct the proceeding. If the judge to whom the affidavit is certified finds that it is legally sufficient, another judge shall be called to try the case or to conduct the proceeding. If the judge to whom the affidavit is certified does not find the

affidavit to be legally sufficient, he shall enter a finding to that effect and the challenged judge shall proceed with the case or proceeding.

Utah Rules of Criminal Procedure, Rule 29 (c),(d).

(e)(i) If the prosecution or a defendant in a criminal action believes that a fair and impartial trial cannot be had in the jurisdiction where the action is pending, either may, by motion, supported by an affidavit setting forth facts, ask to have the trial of the of the case transferred to another jurisdiction.

Utah Rules of Criminal Procedure, Rule 29 (e)(i).

6. The court may permit an indictment or information to be amended at any time before verdict if no additional or different offense is charged and the substantial rights of the defendant are not prejudiced. After verdict, an indictment or information may be amended so as to state the offense with such particularity as to bar a subsequent prosecution for the same offense upon the same set of facts.

Utah Rules of Criminal procedure 4(d).

Questions of law are to be reviewed for correctness, giving no deference to the trial court's interpretations.

State v. Sousa, 846 P.2d 1313, 1317 (Utah App. 1993).

STATEMENT OF CASE

This matter originated as a traffic violation proceeding filed in the Nephi Precinct Court, Juab County, State of Utah. The case was transferred to the Fourth Circuit Court of Juab County, State of Utah, by the Nephi Precinct Court Judge following a Motion for Recusal filed by Appellant. Appellee filed an insufficient, ambiguous information which confused the Appellant as to which elements the prosecution was to rely upon at trial. The Appellant was rushed to trial in the Circuit Court with fundamental due process rights denied by the court. The insufficient information was amended on the day of trial in the Circuit Court charging a new

offence seriously prejudicing and surprising the Appellant. Due to judicial bias and prejudice, judicial and prosecutorial misconduct, the Appellant was denied a fair trial. The Appellant filed post judgment motions and objections to allow the court to correct the improprieties at his sentencing. No relief was accorded the Appellant as he was sentenced to the maximum fine and penalty the court could impose.

STATEMENT OF FACTS

1. This case originated in the Nephi Precinct Court for Juab County, State of Utah, where the Appellant was charged with the offense § 41-2-124 Utah Code Ann. (1992).

2. The case was transferred to the Fourth Circuit Court, Juab County, State of Utah, on 8 June 1993, following a Motion for Recusal or Dismiss Action filed in the Nephi Precinct Court by Appellant.

3. On 10 June 1993, the Accused/Appellant was notified of the transfer and a Pre-trial hearing set for 18 June 1993.

4. The Appellant appeared specially at the Pre-trial hearing on 18 June 1992.

5. The Circuit Court issued an improper summons upon the Accused/Appellant and set trial 6 days later on June 24, 1993. The Appellant vehemently objected being unprepared for trial.

6. The Accused/Appellant filed a motion for an enlargement of time for trial, requests for hearings, as well as other procedural motions which were denied by the trial court.

7. At the beginning of trial on 24 June 1993, the Accused/Appellant was served with a new insufficient amended information. The former information charging the offence of Utah Code Ann. § 41-2-124 (1992), was amended to the offense of § 41-2-104 Utah Code Ann. (1992).

8. At trial, the Accused/Appellant moved for a continuance to prepare his case as a new offense was charged in the amended information. This continuance was denied by the court. The Accused/Appellant objected to going to trial being unprepared.

9. The Court summarily dismissed Appellant's previously filed affidavit of bias and prejudice on the judge.

10. The jury submitted a guilty verdict to the Court.

11. Post verdict and before sentencing the Appellant filed the following Motions: Objections to Court Proceedings/Judicial Misconduct, Motion for Reversal of Verdict and Entry of Direct Verdict of Acquittal, Motion for Mistrial/Motion for New Trial, Misconduct of Judge, Misconduct of Prosecutor, Bias of Jurors.

12. Appellant was sentenced on 16 July 1993.

13. On July 24, 1993, the Accused/Appellant filed the following Motions: Objections to Judgement/Sentence, Motion to Amend/Reduce and or Vacate Judgement/Sentence, Request for Hearing.

13. The Court denied all post verdict/post judgement Motions filed by Appellant.

14. Appeal was filed on 3 August 1993 by Appellant.

SUMMARY OF ARGUMENTS

The Appellant maintains that throughout the adjudication of his case several of his fundamental due process guarantees were denied by the court. In addition, rules of court procedure were not followed, substantially prejudicing the Appellant's constitutionally protected rights. The Utah Court of Appeals has ruled in prior case law that certain violations of court procedure are grounds for reversal. The Appellant contends that he can show how certain violations of court procedure are grounds for reversal of his conviction.

Amending informations are allowed in the adjudicative process in the courts, however certain restrictions are outlined by the Rules of procedure as well as rulings from the upper courts in current Utah case law. The Appellant will show how the amending of the information on the day of trial surprised and prejudiced him.

Integral to the judicial process is an unbiased trier of fact. Rules of procedure are to be followed whenever there is a colorable claim of bias or prejudice on the part of the judge. The Appellant will demonstrate that in his case the rules and procedures for handling such claims were not followed.

Rights to fair notice found in the Utah State Constitution, article I, section 12, guarantee an accused person the right to understand the nature and cause of any accusation against him. The Appellant maintains that proper notice of the offense did not transpire.

Proper statutory construction is essential in the adjudication of criminal cases in order to inform the accused what conduct is proscribed. The Appellant will show that the court improperly construed § 41-2-104 Utah Code Ann. (1992), in convicting the Appellant.

The doctrine of fundamental fairness is mandatory in any court proceeding. The Appellant will show that procedural due process requirements were not complied with inhibiting him from having a fair trial.

ARGUMENTS

After the transfer of the case to the Circuit Court, the Appellant had 6 days to prepare his case. The Appellant prepared to defend against the charge of Utah Code Ann. § 41-2-124 (1992). At the trial held on June 24, 1993, the Court allowed an amended information (See Exhibit A) charging a new offense namely, Utah Code Ann. § 41-2-104 (1992), replacing the former information filed in the Nephi Precinct Court (See Exhibit A). This fact is confirmed in Appellee's Motion in Support of Summary Disposition, page 3, paragraph 2 (See Exhibit B).

Although Rule 4(d), of the Utah Rules of Criminal Procedure allows the State to amend the information on the day of trial, it can do so as long as the amendment does not charge an additional or different offense and prejudice the defendants substantial rights.

The two aforementioned statutes have fundamentally different elements thus violating this rule. Utah Code Ann. § 41-2-124

(1992) states:

41-2-124 License to be carried when driving-
Production in court.

(1) The licensee shall have his license in his immediate possession at all times when operating a motor vehicle and shall display it upon demand of a justice of peace, a peace officer, or a field deputy or inspector of the division.

(2) It is a defense to a charge under this section that the person charged produce in court a license issued to him and valid at the time of his citation or arrest.

The applicable section in Utah Code Ann. § 41-2-104 (1992) is also cited:

41-2-104 Operators must be licensed-Taxicab
endorsement

(1) No person, except one expressly exempted under Section 41-2-107, 41-2-108, or 41-2-111, or Subsection 41-2-121(4), or Title 41, Chapter 22, may operate a motor vehicle on a highway in this state unless the person is licensed as an operator by the division under this chapter.

The commanding element in Utah Code Ann. § 41-2-124 (1992) is the immediate possession of the licensee's license while operating a motor vehicle. The license is to be carried on the person while operating a motor vehicle.

Alternately, Utah Code Ann. § 41-2-104 (1992) commands a person who wishes to operate a motor vehicle on the highways in this state to obtain a license. Commanding a person to obtain a license is substantially different than commanding a person to carry said license in his possession. Utah Code Ann. § 41-2-124 implies the person has a license and directs him to produce it, whereas Utah Code Ann. § 41-2-104 commands a person to obtain a license.

A controlling case on this subject is State v. Ramon, 736 P.2d 1059 (Ut.App. 1987), where the court reversed the Appellant's conviction because the amended information at trial charged an additional or different offense from the original information.

Amending the information, charging a new offense, and proceeding to trial substantially prejudiced and surprised the Appellant. 'Amendments to an information are permissible so long as the amendment does not alter the degree of the charged crime or unfairly surprise the defendant'. (As cited in Wright v. Lockhart, 854 F.2d 309, (8th Cir. 1988). See also Lincoln v. State, 287 Ark. 16, 696 S.W.2d 316, (Ark. 1985). Trial strategy for the cross examination had to be modified to address the different offense. The record will reflect that the State's main witness could not recall crucial facts needed to prove beyond a reasonable doubt the essential elements of the charge of Utah Code Ann. § 41-2-124 as charged in the original information. Since the Accused/Appellant was arraigned on the day of trial on the new offense of Utah Code Ann. § 41-2-104 he was extremely prejudiced by this chain of events having to abandon trial strategy previously prepared.

The Court of Appeals stated in State v. Ramon, 736 P.2d at 1062 (Ut.App. 1987),

[1] Under the Rule, the trial court may allow an information to be amended if two conditions are met:

(1) no additional or different offense is charged, and

(2) the substantial rights of the defendants are not prejudiced.

In general these two conditions are met where the proposed amendment to an information merely recites language of the statute

originally charged.

(State v. Peterson, 681 P.2d 1210, 1220-21 (Utah 1984),
as cited in State v. Ramon, 736 P.2d 1059, (Ut.App. 1987).

A careful analysis of the amended information will reveal no language of the statute explicitly stated. No elements of any statute are found in the new amended Information. Since the rule was not followed a reversal of Appellant's conviction is warranted.

The trial court erred in summarily dismissing Appellant's affidavit of bias and prejudice (Exhibit C). This is grounds for reversal. State v. Neeley, 748 P.2d 1091 (Utah 1988). The Appellant filed an affidavit of bias and prejudice on June 21, 1993, three days after the bias and prejudice was demonstrated at a hearing held on June 18, 1993. On June 24, 1993, the trial court ruled that no bias and prejudice existed and proceeded to trial. The Appellant objected timely to this violation of court procedure.

Rule 29 of the Rules of Criminal Procedure states in part:

Rule 29. Disability and disqualification of a judge or change of venue.

(c) If the prosecution or a defendant in any criminal

action... files an affidavit that the judge... has a bias or prejudice....the judge shall proceed no further until the challenge is disposed of.

(d) If the challenged judge questions the sufficiency of the allegation of disqualification, he shall enter an order directing that a copy be forthwith certified

to another named judge of the same court or of a court of like jurisdiction, which the judge shall then pass upon the legal sufficiency of the allegations... If the judge to whom the affidavit is certified finds that it is legally sufficient, another judge shall be called to try the case or to conduct the proceeding. If the judge to whom the affidavit is certified does not find the affidavit to be legally sufficient, he shall enter a finding to that effect and the challenged judge shall proceed with the case or proceeding.

In State v. Neeley, 748 P.2d 1091 (Utah 1988), the Utah Supreme Court declared:

But, while we recommend the practice that a judge recuse himself where there is a colorable claim of bias or prejudice, absent a showing of actual bias or an abuse of discretion, failure to do so does not constitute reversible error as long as the requirements of section 77-35-29 are met.

State v. Neeley, 748 P.2d at 1094, (Utah 1988).

In a more recent case, Brian Barnard v. Michael Murphy, No. 93016-CA (Ut.App. 1993), this Court clearly outlined the options open to a trial judge in response to the filing of an affidavit of bias and prejudice against him:

'In the alternative, if the judge does not question the legal sufficiency of the affidavit, a substitute judge "must be called in to try the case or determine the matter in question." The rule further provides that upon receipt of the affidavit, the judge against whom it is directed "shall proceed no further therein, except to call in another judge to hear and determine the matter."

The clear import of Rule 63(b) is that a judge against whom the affidavit is directed must either recuse him- or herself, or if he or she questions the legal sufficiency of the affidavit, certify the matter to another named judge for a ruling on its legal sufficiency.'

Clearly defined within this rule is the proper procedure to follow whenever an affidavit of bias or prejudice is submitted by a party. The judge to whom the bias is alleged is to proceed no further in the case and submit the affidavit to another named judge to pass on the legal sufficiency of said affidavit. This procedure was not followed in Appellant's case on appeal. The court summarily dismissed the affidavit and proceeded to trial. This fact is confirmed in Appellee's Motion in Support of Summary Disposition, page 6, paragraph 1 (Exhibit B).

Furthermore, Appellant filed a motion for change of venue (Exhibit D), pursuant to U.R.Cr.P. Rule 29(e)(i), believing that a fair trial could not be had in that jurisdiction. This motion was also summarily denied before trial.

The Appellant attacks the legal sufficiency of the new amended information (See Exhibit A) to charge an offense. Appellant filed an objection within his Motion (See Exhibit E, #11) to improper notice and is allowed this defense for the first time on appeal (As cited in U.S. v. Gilbert, 813 F.2d 1523, (9th Cir. 1987). See also U.S. v. Seuss, 474 F.2d 385, (1st Cir. 1973), Carlson v. U.S., 296 F.2d 385, (9th Cir. 1961).

The amended information was vague and ambiguous. The information failed to state the language of the statute. 'Informations that fail to contain the crime's essential statutory

elements do not state crimes and a charging document that fails to apprise the defendant of all of the statutory elements of the crime is constitutionally defective.' See State v. Davis, 808 P.2d 167 (Wash.App. 1991).

The amended information was insufficient on its face. It did not have a date filed, stating June, 1993, as the filing date. The information was not sworn to by the complaining witness before the magistrate.

An overriding fundamental principal of American jurisprudence is the mandate that criminal proceedings require probable cause supported by oath and affirmation before a magistrate as a matter of proper due process. This fundamental principal is espoused in the Fourth Amendment of the US Constitution and Utah Constitution, art. I, sec. 14. Utah statutes require this fundamental principle to be followed in assuring due process.

The magistrate shall examine, on oath, the complainant and any witnesses he may produce and may take their testimony in writing.

Utah Code Ann. § 77-3-2 (1992).

A complaint, within the meaning of this chapter, is a statement in writing setting forth the jurisdictional facts, specifying the threatened offense, and subscribed and sworn to by the complainant before the magistrate.

Utah Code Ann. § 77-3-3 (1992).

Utah case law also confirms the absolute necessity of the complaining witness swearing before a magistrate under oath before

a warrant or summons is issued. In Hillyard v. Logan City Court, 578 P.2d 1273, (Ut. 1978), the Utah Supreme Court said:

"... Proceedings and actions before a justices' court for a misdemeanor offense must be commenced by complaint under oath, setting forth the offense charged, with such particulars of time, place, person and property as to enable the defendant to understand distinctly the character of the offense complained of, and to answer the complaint. The complaint shall be commenced before a magistrate within the precinct of the county or city in which the offense is alleged to have been committed."

Hillyard v. Logan City Court, 578 P.2d 1273 (Utah 1978).

In Chynoweth v. Larson, 572 P.2d 1081, (Ut. 1977). the Utah Supreme Court also stated:

"When a complaint is made before a magistrate charging a person with the commission of a crime or public offense, such magistrate must examine the complainant under oath, as to his knowledge of the commission of the offense charged, and he may also examine any other persons and may take their depositions."

Chynoweth v. Larson, 572 P.2d 1081 (Utah 1977).

The principle of complaints sworn under oath is basic in the commencement of criminal proceedings. (See Salt Lake City v. Hanson, 425 P.2d 773, (Ut. 1967), State v. Brady, 425 P.2d 155 (Utah 1967). Since the information was not subscribed and sworn to before the magistrate it constitutes a violation of Appellant's constitutional rights contained in article I, section 14, of the Utah State Constitution and the conviction should not be allowed to

stand. Furthermore, the Utah Court of Appeals, in State v. Lorocco, 794 P.2d 460, 470 (Ut.App. 1990) and State v. Sims, 808 P.2d 141 (Ut.App. 1991), stated that article I, section 14 of Utah Constitution, is more protective than the fourth amendment to the United States Constitution.

The language of the information was ambiguous and because the information was insufficient on its face, Appellant was not given proper notice of the offence charged pursuant to his rights to proper notice in Article I, section 12, of the Utah State Constitution.

Appellant challenges the statute, § 41-2-104 Utah Code Ann. (1992), charged in the information, in a collateral sense, and objects to his conviction under said statute. See Goodloe v. Parratt, 605 F.2d 1041, (8th Cir. 1979). The statute was misapplied in convicting the Appellant.

A well established legal principle in statutory construction is for statutes to be explicitly stated for the ordinary person to understand. 'A statute is not unconstitutionally vague if it is sufficiently explicit to inform the ordinary reader what conduct is proscribed.' State v. Theobald, 645 P.2d 50 (Utah 1982). 'In the process of interpretation, courts may not take, strike, or read anything out of a statute or delete, subtract, or omit anything therefrom.' (73 Am.Jur.2d Statutes § 200 (1974), as cited in Chris & Dick's Lumber & Hardware v. Tax Commission, 791 P.2d 511, 516 (Ut. 1990)).

Appellant does not claim that § 41-2-104 Utah Code Ann. (1992) is unconstitutionally vague on its face but does challenge the statute with respect to his conviction under it. 'Criminal statutes are to be strictly construed in favor of an accused.' (See United States v. Kelly, 527 F.2d 961, 964 (9th Cir. 1976), as cited in U.S. v. Gilbert, 813 F.2d 1523, 1526 (9th Cir. 1987)). 'As a matter of due process, no one may be required at the peril of loss of liberty to speculate as to the meaning of penal statutes.' Id. 1530.

The trial court misapplied and read out of the statute that which was not there. Appellant was convicted of "driving on an expired license"(See Exhibit F). This element is simply not found within the four corners of statute § 41-2-104 (1992). This statute makes no mention of "driving on an expired license" or renewal of licenses. In fact, the word 'expired' is nowhere to be found in this statute. The Appellant was convicted on elements not contained within the statute.

At the close of trial the Appellant moved for a directed verdict of acquittal because of this fact alone. This misapplication of the statute by the trial court constitutes a deprivation of procedural due process in violation of the Appellant's 14th amendment rights under the United States Constitution.

The facts are that the Appellant had formally obtained an operator's license, in conformance with § 41-2-104 Utah Code Ann. (1992), as the statute is constructed. At sentencing, the

Appellant proffered proof of a certified document from the Division of Motor Vehicles that there were no suspensions or revocations against his driving privilege (See Exhibit G).

Because of these facts, statute § 41-2-104 Utah Code Ann. (1992) was constitutionally vague as applied to the Appellant's case. Fact of the matter was the judge wasn't interested enough to find out if the statute even applied before sentencing the Appellant.

Throughout the entire court proceedings the Appellant was denied fundamental rights to due process guaranteed by Article I, section 7, of the Utah State Constitution. Fundamental fairness was not present.

'One of the fundamental requisites of due process is the opportunity to be fully heard', Wiscombe v. Wiscombe, 744 P.2d 1024, 1025 (Ut.App. 1987). 'The demands of due process rest on the concept of basic fairness of procedure and demand a procedure appropriate to the case and just to the parties involved.' (quoting Rupp v. Grantsville City, 610 P.2d 338, 341 (Utah 1980). 'Due process is not a technical conception with a fixed content unrelated to time, place, and circumstances; it is flexible and requires such procedural protections as the particular situation demands'. Worrall v. Ogden City Fire Dept., 616 P.2d 598, 601 (Utah 1980).

The Appellant was denied the opportunity to be fully heard, the court procedure was not just, and the court was not flexible in

applying procedural protections. The Appellant objected verbally and by written pleadings to being rushed to trial (See Exhibit K). He was unprepared, demanded legal issues to be ruled upon, and requested additional hearings (See Exhibit H) all which were denied by the court. The Appellant objected orally in open court to the Court's denial. Motions submitted on 21 July 1993, were denied summarily by the court prior to trial without any argument by the Plaintiff/Appellee. This fact is confirmed in Appellee's Memorandum in Support of Summary Disposition on page 3, paragraph 2 (Exhibit B). This is further evidence of the judge's bias and prejudice against the Appellant. Several affidavits (See Exhibit I) filed by the Appellant outlining unfair procedures are a part of the case file. The Appellee did not file any counter affidavits in opposition thus by waiver they are deemed to be true. Objections to Court proceedings (Exhibit J) were also filed on 3 July 1993, which also outline due process violations.

The Appellant was denied constitutional rights protected under the USCA 5 and 14, as well as rights protected under the Utah Constitution, article I, section 7. The Utah Supreme Court declared,

"If it appears that an accused has been abused or imposed upon by the denial of a constitutional right or otherwise, so there is any likelihood that he was unjustly convicted, the conviction should not be permitted to stand."

State v. Scandrett, 468 P.2d 639, 642 (Utah 1970).

This particular case with the unusual circumstances which surrounded it demanded flexibility, fairness, with the right to be

heard. This did not occur.

CONCLUSION

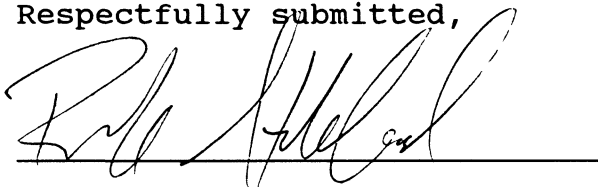
The court erred in permitting an amended information at the trial of the Appellant. Additional errors were committed which denied the Appellant a fair trial with a neutral, unbiased trier of fact. Notice requirements of due process seriously jeopardized the Appellant's constitutionally protected rights.

Each of the five issues individually presented on appeal by Appellant warrant a reversal of his conviction. Taken collectively, it represents a mountain of evidence to overturn the judgement of the trial court.

The Appellant prays for relief from the Judgment entered against him and that the Utah Court of Appeals will reverse his conviction.

Dated this day 14 January 1994

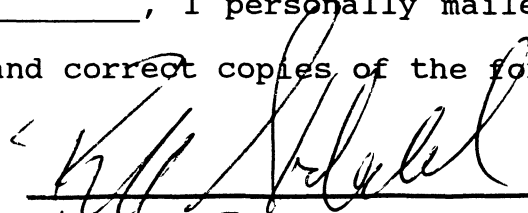
Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Ralph Stoddard', is written over a horizontal line.

Ralph Stoddard, Appellant

CERTIFICATE OF MAILING

I, Ralph Stoddard, do hereby certify that on this day,
14 JANUARY 1994, I personally mailed, first class
postage prepaid, true and correct copies of the foregoing to:



APPELLANT

Donald J. Eyre, Jr.
Attorney for Appellee
125 North Main
Nephi, Utah 84648

Utah Court of Appeals
230 S. 500 E., #400
Salt Lake City, Utah 84102
Hand Delivered

ATTACHMENTS

- A. Amended information, original information
- B. Appellee's Motion in Support of Summary Disposition
- C. Appellant's affidavit of bias and prejudice
- D. Appellant's Motion for a Change of Venue
- E. Appellant's Motion for Reversal of Verdict
- F. Judgment of Circuit Court, Jury Verdict
- G. Appellant's certified letter from Division of Motor Vehicles
- H. Appellant's Requests for Motion Hearing, Objections Hearing
- I. Affidavits filed by Appellant
- J. Objections filed by Appellant
- K. Motion for Enlargement of Time filed by Appellant

Exhibit A

IN THE JUSTICE COURT
IN AND FOR JUAB COUNTY
STATE OF UTAH

THE STATE OF UTAH
Plaintiff

vs.
RALPH H. STODDARD

Defendant(s)

AMENDED
Information

Criminal No. _____

The undersigned, Donald J. Eyre Jr. under
oath states on information and belief, that the defendant(s), on or about the 2nd
day of March, 1993 at Juab County, State of Utah, unlawfully did
commit the Class "C" misdemeanor of expired driver's license as follows:
The defendant did operate a motor vehicle at a time when his driver's
license had expired; contrary to Section 41-2-104 U.C.A. 1953 as amended.

This information is based on evidence obtained from the following witnesses

Charlie Ray Wilson, Utah Highway Patrol

Authorized for presentment and filing.

County Attorney


~~Complainant~~
Juab County Attorney
Dated ~~subscribed and sworn to before me this~~ _____

day of June, 1993

Judge of the Justice's Court

IN THE JUSTICE COURT
IN AND FOR JUAB COUNTY
STATE OF UTAH

THE STATE OF UTAH
Plaintiff

vs.

RALPH H. STODDARD

Information

Criminal No. B977609

Defendant(s)

The undersigned, Donald J. Eyre Jr. under

oath states on information and belief, that the defendant(s), on or about the 2nd

day of March, 19 93 at Juab County, State of Utah, unlawfully did

commit the following counts:

Count 1: The Class "C" misdemeanor of defective equipment as follows: The defendant did drive a motor vehicle that had a defective exhaust; contrary to Section 41-6-155 U.C.A. 1953 as amended.

Count 2: The Class "C" misdemeanor of defective equipment as follows: The defendant did drive a motor vehicle that had a defective windshield; contrary to Section 41-6-155 U.C.A. 1953 as amended.

Count 3: The Class "C" misdemeanor of expired driver's license as follows: The defendant did drive a motor vehicle at a time when his driver's license had expired; contrary to Section 41-2-124 U.C.A. 1953 as amended.

This information is based on evidence obtained from the following witnesses:

Charlie Ray Wilson, Utah Highway Patrol

Authorized for presentment and filing.

County Attorney

Donald J. Eyre Jr.

Juab County Attorney

Dated ~~Subscribed and sworn to before me~~ this 28th

day of April, 19 93

Judge of the Justice's Court

Cl. Drissal 4-28-93
[Signature]

Exhibit B

Donald J. Eyre Jr., No. 1021
Juab County Attorney
125 North Main Street
Nephi, Utah 84648
Telephone: 623-1141

IN THE COURT OF APPEAL

STATE OF UTAH

| | | |
|-----------------------|---|--------------------------|
| STATE OF UTAH, | : | |
| Plaintiff/Appellee, | : | MEMORANDUM IN SUPPORT OF |
| | | SUMMARY DISPOSITION |
| vs. | : | |
| | | Case No. 930511-CA |
| RALPH STODDARD, | : | |
| Defendant/Appellant.: | | |

Comes now the State of Utah by and through the Juab County Attorney and submits the following Memorandum in support of summary disposition of the above entitled appeal.

STATEMENT OF FACTS

The defendant was stopped on March 2, 1993 by Trooper Charlie Wilson of the Utah Highway Patrol while driving a motor vehicle on I-15 for a couple of equipment violation, a broken windshield and a defective exhaust system. Upon stopping the vehicle, the officer requested a driver's license, and the officer determined that the defendant's driver's license had expired in February, 1992. The

officer prepared a citation for the defective equipment and for the expired driver's license. The defendant refused to sign the citation. Rather than physically arrest the defendant, the officer gave the defendant a copy of the citation and verbally told the defendant to contact the Justice's Court in and for the Nephi Precinct.

When the defendant failed to appear before the Justice's Court, the Court issued a Criminal Summons and had it served upon the defendant. The defendant appeared before the Justice's Court on April 28, 1993. The two defective equipment counts were in the form of a "fix it" ticket and when the defendant provided proof that the defective equipment had been repaired, those counts were dismissed by the Court. The defendant refused to enter a plea to the expired driver's license charge, so the Court, pursuant to Rule 11 of the Utah Rules of Criminal Procedure, entered a not guilty plea for him.

The defendant then moved the Justice's Court Judge to disqualify herself pursuant to Rule 29 of the Utah Rules of Criminal Procedure. The Justice's Court Judge disqualified herself and transferred the case to the Circuit Court in and for Juab County, State of Utah.

The defendant appeared before the Circuit Court on June 18, 1993 pursuant to a notice of a pre-trial conference. The defendant

objected to the jurisdiction of the Court over him. The Circuit Judge then caused the defendant to be served with a Summons.

The matter was set for jury trial on June 24, 1993. The defendant filed numerous motions, which were all denied and found to be without merit. The State filed an Amended Information which still charged the defendant with driving a motor vehicle with an expired driver's license, merely changing the charging section from 41-2-124 to 41-2-104 U.C.A. which is the more appropriate section for the charged crime. The Court found that the defendant was not prejudiced by the filing of the Amended Information, in that at all time he was aware of the nature of the charge against him.

After a trial on the merits of the case, the jury returned a verdict of guilty against the defendant, and the Court subsequently sentenced the defendant.

The defendant at no time has presented evidence that he was not driving a motor vehicle on the subject day or that his driver's license was not expired. The prosecutor informed the defendant even up to the day of the trial that if he would provide proof that he now had a current driver's license he would dismiss the charge against him. The defendant failed to comply with the prosecutor's request.

In addition to filing Motions to disqualify both the Justice Court Judge and the Circuit Court Judge, the defendant filed

complaints with the Judicial Conduct Commission against both of them.

ARGUMENT

THE APPELLANT'S DOCKETING STATEMENT FAILS TO RAISE ANY SUBSTANTIAL QUESTIONS FOR THE COURT OF APPEALS TO CONSIDER AND SHOULD BE SUMMARILY DISMISSED.

The appellant has listed six issues for review on appeal in his docketing statement. They are broad generalities with few specific allegations of error.

With respect to issue "A" concerning the alleged lack of jurisdiction of the Court over the appellant, the record is clear from the information set forth in the defendant's docketing statement that he was twice served with a criminal summons, and appeared before the Justice and Circuit Court on several occasions and represented himself at the trial on June 24, 1993. Based upon the service of the summons and the appellant's actual appearance before the Court, the Court had jurisdiction over the defendant.

Issues "B and "C" deal with the fact that on the day of trial an Amended Information was filed, making a correction only in the section charged from a violation of Section 41-2-124 to 41-2-104 U.C.A. with the charging language of driving a motor vehicle when his driver's license was expired remaining exactly the same. The Utah Supreme Court in the case of State vs. Lancaster, 765 P.2d 872 (Utah, 1988) held that the Judge's amendment of an information,

which only changed the statutory reference but did not alter the text of the information, was not prejudicial. In the present case, the appellant was at all times fully aware of the charge against him, and a mere change in the statutory reference was not prejudicial. The charge against the appellant is very simple, either he was driving a motor vehicle at a time when his driver's license was expired or he wasn't.

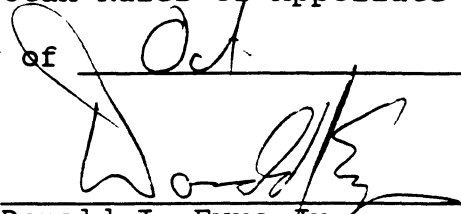
The allegations of error in issues "D" and "E" are so general and vague that they should not be considered by the Court. The appellant is not specific in how the conviction was derived from a vague interpretation of the statute or how the Court improperly construed the statute. The appellant did not submit any proposed jury instructions, nor did he take exception to those proposed by the State. The appellant does not allege any specific irregularities in the proceeding that violated his constitutional rights that prevented him from having a fair trial.

Finally in issue "F" the appellant alleges error because the Circuit Judge refused to disqualify himself after the appellant filed an affidavit of bias and prejudice against him. Rule 63(b) of the Utah Rules of Civil Procedure which by its language applied to both civil and criminal proceedings and is concerned with the disqualification of Judges, states: ". . . . No party shall be entitled in any case to file more than one affidavit." Since the

appellant had previously filed an affidavit and request for disqualification as to the Justice Court Judge he was not permitted to file another affidavit against the Circuit Judge, therefore his motion for disqualification was properly denied.

The appellant was charged with a Class C misdemeanor, but he has already filed more pleadings than would normally be filed in the most serious of 1st degree felonies. This case has already taken up substantial judicial prosecutorial and jurors time on substantially frivolous matters. This Court should finally bring this matter to a conclusion by summarily dismissing this matter pursuant to Rule 10(e) of the Utah Rules of Appellate Procedure.

Dated this 29th day of Oct, 1993.



Donald J. Eyre Jr.
Juab County Attorney

I hereby certify that I mailed a copy of the foregoing Memorandum In Support Of Summary Disposition to Ralph Stoddard, P. O. Box 65415, Salt Lake City, Utah 84115 on this 29th day of October, 1993.

BY 

Exhibit C

1. I have personal knowledge of all the facts contained in this affidavit.
2. On June 10, 1993, I was given notice of transfer of my case from the Nephi Justice Court to the Juab County Circuit Court.
3. The case was transferred as a result of a Motion for recusal of the Justice Court Judge for demonstrating bias and prejudice toward the Accused while in the Justice Court.
4. On June 18, 1993, I made a Special appearance in the Juab County Circuit Court before Judge John Backlund.
5. I informed the Judge that I was specifically there to quash the summons, but had left my motion at a gasoline station in traveling to Nephi, and requested more time. Request was

denied.

6. Judge Backlund became angry at me for not accepting the State's dismissal offer. He was incensed at the proposition of adjudicating a Class C traffic matter and so stated. His attitude toward me did not reflect a presumption of innocence but rather an attitude that I was guilty so why was I bringing this case before the Court.
7. I explained to Judge Backlund that I did not feel that I had been "heard" in the Justice Court as a matter of Due Process of Law, that being the reason for a change of Judge. He stated he did not want to hear anything about any of the issues in the Justice Court.
8. In raising the issue of erroneous usurpation of jurisdiction in personam by the Justice Court's defective summons, Judge Backlund stated the Court had Jurisdiction in personam over me.
9. I stated my appearance was Special and requested the Court so order my jurisdictional argument to be preserved for argument at a later time.
10. Judge Backlund stopped the hearing and ordered a new summons to be issued and ordered me to sit in the jury box for 5-10 minutes while the summons was being issued. I requested to sit by a friend in the public seats. My request was denied. I asked why my request was denied. Judge Backlund stated, "So I can see where you are".
11. A sheriff deputy bailiff was present in the Court room and could see me where ever I was sitting. Judge Backlund retired

to Chambers. It just so happens that the Judge would have a better view of me from his chambers if I was sitting in the public seats.

12. After several minutes, I asked the Bailiff to ask Judge Backlund if I could get a drink of water. Judge Backlund said no, as the summons was almost ready.
13. The summons was presented to me, and the hearing continued.
14. I stated to Judge Backlund, that due to the unusual circumstances surrounding this case, I needed more time to prepare, felt rushed, wanted a Motions hearing, and a pre-trial conference to deal with matters of empaneling a Jury. All of these requests were denied. I objected.
15. Judge Backlund began to look at his calendar to schedule trial. He discussed dates in July, and I requested trial in August. Judge Backlund also had a date 6 days later, on June 24, 1993. He stated that he had to schedule trial earlier because he felt I would file a dismissal for lack of speedy trial. I stated that I would waive my speedy trial right.
16. Judge Backlund then scheduled trial at the earliest possible date, 6 days later on June 24, 1993. I vehemently objected as I would not be prepared. He would not listen to my concerns.
17. I feel that Judge Backlund is bias and prejudiced against me and was influenced by the presence of Justice Court Judge Williams, present in the Court room throughout the entire proceedings, even though I was the last matter before the Court.
18. I had been sitting in the Court room from 9:30 a.m. to 12:00

p.m., with all matters on the calendar adjudicated prior to mine. Justice Court Judge Williams was present the entire time, left when the summons was being completed, and came back into the Court room when the hearing resumed. Judge Williams, her clerks, and my friend were the only people sitting in the public seats.

19. I feel that this was a display of bias and prejudice and intimidation. This conduct is unprofessional, smacks of impropriety, and Judge Backlund was biased toward me thereby.
20. I feel that Judge Backlund demonstrated bias and prejudice toward me by rushing me to trial, by his angry demeanor in responding to me, and attempted to intimidate me by ordering me to sit in the jury box, where 6-8 shackled, orange clad, Juab County inmates had been sitting prior to their hearings.
21. I feel that Judge Backlund will not give me due process of law and there is a "reasonable likelihood" that a fair and impartial trial cannot be had in this jurisdiction, and I want to get as far away from Nephi as possible.
22. I submit this affidavit in "good faith" .

Dated this 21st day of June, 1993.

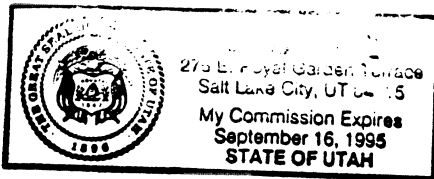
Respectfully Submitted,


Ralph Stoddard

VERIFICATION

STATE OF UTAH)
)
County of Salt Lake)

On this 21st day of June, 1993, personally appeared before me Ralph Stoddard, the signer of the above document, who being first sworn did say that the matters and things stated therein are true to the best of his knowledge, information, and belief.



Ronald K. Kende
NOTARY PUBLIC

CERTIFICATE OF SERVICE

I, Ralph Stoddard, do hereby certify that on this 21st, day of June, 1993, I hand delivered a true and correct copy of the document-Affidavit in support of Motion for Change of Venue and Change of Judge to:

JUAB COUNTY ATTORNEY'S Office
125 North Main Street
Nephi, Utah 84648

Ralph Stoddard
Ralph Stoddard

JUAB COUNTY CIRCUIT COURT
Juab County Courthouse
Nephi, Ut. 84648
Hand Delivered

Exhibit D

FILED
IN THE CIRCUIT COURT
JUAB COUNTY UTAH

Ralph H. Stoddard
112 E. 400 S.
Ephraim, Ut.

Clerk

Deputy

IN THE FOURTH JUDICIAL CIRCUIT COURT
IN AND FOR JUAB COUNTY, STATE OF UTAH

| | | |
|-------------------|---|----------------------|
| THE STATE OF UTAH |) | SPECIAL APPEARANCE |
| Plaintiff |) | |
| |) | MOTION FOR CHANGE OF |
| |) | VENUE |
| VS |) | |
| |) | |
| |) | Case No. C-TR-930003 |
| RALPH STODDARD |) | |
| Accused |) | Judge Backlund |

COMES NOW the Accused, appearing Specially, not Generally, nor Voluntarily, pursuant to Rule 29(e)(i), of the Rules of Criminal procedure, to move the Juab County Circuit Court, to order the instant case be transferred to the Jurisdiction of Sanpete County, a change of Venue, as a matter of right. The Accused believes that a fair and impartial trial can not be held in Juab County, raises a "reasonable likelihood" (See State v. James, 767 P.2d 549 Utah 1989), and accompanies this demand with a verified affidavit, and does so in "good faith".

THEREFORE, the Accused hereby demands a change of Venue in the interests of Justice.

Dated this 21st day of June, 1993.

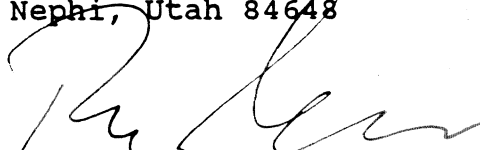
Respectfully Submitted,


Ralph Stoddard

CERTIFICATE OF SERVICE

I, Ralph Stoddard, do hereby certify that on this 21st, day of June, 1993, I hand delivered a true and correct copy of the document-Motion for Change of Venue to:

JUAB COUNTY ATTORNEY'S Office
125 North Main Street
Nephi, Utah 84648


Ralph Stoddard

JUAB COUNTY CIRCUIT COURT
Juab County Courthouse
Nephi, Ut. 84648
Hand Delivered

Exhibit E

IN THE FOURTH JUDICIAL CIRCUIT COURT

IN AND FOR JUAB COUNTY, STATE OF UTAH

COMES NOW the Accused, appearing Specially, not Generally, nor Voluntarily, for the purpose of moving this Court for an order setting aside the verdict heretofore entered in this cause, for the following reasons:

2. The Court proceeded with trial in spite of the strenuous objection of the Accused being unprepared to defend against the new offense. The offense the Accused was prepared to defend has substantially different elements than the new charge, thus prejudicing the Accused.

3. The denial by the Court for substantial due process hearings requested by the Accused, thus prejudicing the Accused's rights.

4. The Accused was deprived of a fair trial and substantially prejudiced by judicial misconduct, in that the Court itself, during the course of the trial, made prejudicial statements toward the Accused in front of the jurors. The judge used a voice tone toward the Accused which included anger, resentment, hostility, and made numerous comments referring to the trial as a simple matter.

5. The Accused was denied a fair trial and substantially prejudiced by prosecutorial misconduct in that the Accused received a new Information the morning of trial and the prosecutor entered improper evidence into the record without opposing counsel examining evidence first.

6. The Accused was denied a fair and impartial trial due to the fact that all of the jurors knew and were friends with the prosecutor.

7. The Court erred in not removing the jurors for cause based upon substantial grounds offered by the Accused.

8. Judge Backlund ruled on his own Disqualification for bias and prejudice, in spite of the fact that his presiding judge is to rule on the matter.

9. The Accused was extremely prejudiced by the judge's refusal to read any of the pleadings and motions of the Accused. On the record and in open Court the judge refused the Accused's request to read the pleadings submitted.

9. The Accused was prejudiced by the Court not allowing a

proper voir dire of the jurors. The Court refused to allow the Accused to individually question each juror and sequester the other jurors upon examination by the Accused. The Accused was only allowed to collectively question all twelve jurors with general questions.

10. The Court allowed improper evidence into the record of the trial, and disallowed the Accused to enter any evidence including a copy of the statute the Accused was charged with.

11. The Accused was denied due process of law, denied the right to know the nature and cause of the action, and to have sufficient time to prepare a defense.

12. The Accused was denied a motion for direct verdict of acquittal when the judge would not refer to the statute in question and allow the Accused to argue the elements of said statute.

13. The judge took on the role of the Legislature in making up elements of a "new statute" and then adjudicating the case, never once reading the charged statute or allowing it to be read or argued.

14. The Court erred in not dismissing the action when a substantially new statute to the Accused was entered in a new amended Information.

WHEREFORE the Accused respectfully moves this Court, for all of the foregoing reasons:

A. That the verdict heretofore rendered against the Accused be reversed and the entire case be dismissed notwithstanding the verdict,

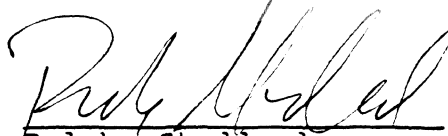
B. That the verdict heretofore rendered against the Accused

be reversed and a judgment of acquittal notwithstanding the verdict
be granted, or

C. That in the alternative, a new trial should be ordered.

Dated this 3rd day of July, 1993.

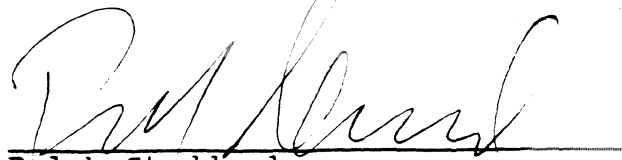
Respectfully Submitted,


Ralph Stoddard

CERTIFICATE OF SERVICE

I, Ralph Stoddard, do hereby certify that on this
3rd, day of July, 1993, I mailed by first
class mail, postage pre-paid, a true and correct
copy of the document-Motion for Reversal of Verdict
and Entry of Direct Verdict of Acquittal to:

JUAB COUNTY ATTORNEY'S Office
125 North Main Street
Nephi, Utah 84648


Ralph Stoddard

JUAB COUNTY CIRCUIT COURT
Juab County Courthouse
160 North Main
Nephi, Ut. 84648

Exhibit F

IN THE CIRCUIT COURT
JUAB COUNTY UTAH

AUG 05, 1993

Clerk

Deputy

Donald J. Eyre Jr., No. 1021
Juab County Attorney
125 North Main Street
Nephi, Utah 84648
Telephone: 623-1141

IN THE FOURTH JUDICIAL CIRCUIT COURT IN AND FOR
JUAB COUNTY, STATE OF UTAH

| | | |
|--------------------|---|----------------------------------|
| THE STATE OF UTAH, | : | |
| | : | |
| Plaintiff, | : | JUDGMENT, SENTENCE AND |
| | : | ORDER OF PROBATION |
| vs. | : | |
| | : | Criminal No. <u>C-TR-93000-3</u> |
| RALPH STODDARD, | : | |
| | : | |
| Defendant. | : | |

The defendant, Ralph Stoddard, was found guilty of the Class C misdemeanor of driving a motor vehicle with an expired driver's license on June 24, 1993 at a jury trial.

The defendant appeared before the Court on July 16, 1993 for Sentencing.

No legal reason having been given why Judgment should not be imposed. It is the Judgment of the Court that the defendant is guilty of the Class C misdemeanor of driving a motor vehicle with an expired driver's license, and the defendant is sentenced to serve 90 days in the Juab County jail and pay a fine of \$500.00.

Imposition of the jail sentence is suspended upon successful completion of an eighteen month probation to the Court upon the following terms and conditions:

1. The defendant maintain a current address with the Court at all times and report to the Court whenever required.

2. The defendant violate no law either federal, state or municipal, including all driving offenses.

3. The defendant pay the fine of \$500.00 at a minimum monthly rate of at least \$50.00 per month. The first payment to be due by the end of August, 1993 and monthly thereafter.

Dated this 3 day of August, 1993.

John Bucklund
Circuit Judge

JUN 24 1993

JUAB COUNTY, STATE OF UTAH

Deputy

:

2

2

:

:

X

DATED this 29 day of June, 1993.

Foreperson of the Jury

Exhibit G



State of Utah

DEPARTMENT OF PUBLIC SAFETY DRIVER LICENSE DIVISION

Michael O. Leavitt
Governor

D. Douglas Bodrero
Commissioner

Brant Johnson
Deputy Commissioner

G. Barton Blackstock, Bureau Chief
Records Bureau

4501 South 2700 West, 3rd Floor
P.O. Box 30560
Salt Lake City, Utah 84130-0560
(801) 965-4437

March 29, 1993

RALPH H STODDARD
350 SOUTH 100 WEST
EPHRAIM UT 84627

Re: Ralph H Stoddard
No: 13343239
DOB: 02-05-55

TO WHOM IT MAY CONCERN:

The records of this Department indicate that the above captioned individual apparently had an address change and was unaware that his driving privilege was suspended.

Mr. Stoddard had a hearing with this Department January 14, 1993 and the hearing officer set aside the suspension.

There are no suspensions or revocations against his driving privilege with this Department at this time.

If there are further questions concerning this matter, please contact this office.

Respectfully,

GBB:jm:cb

Eugene E Berner
Records Manager

Subscribed and sworn to before me this 29th day of March 1993.

NOTARY PUBLIC FOR THE STATE OF UTAH

Residing in Salt Lake County, Utah

My commission expires November 7, 1995.

CL 4 Notary (3177k) CLR1



NOTARY PUBLIC
JAMIE L. NEELEY
2700 West 4501 South
West Valley City, Utah 84111
My Commission Expires
November 7, 1995
STATE OF UTAH

Exhibit H

FILED
IN THE CIRCUIT COURT
JUAB COUNTY UTAH

Ralph H. Stoddard
112 E. 400 S.
Ephraim, Ut.

Clerk

Deputy

IN THE FOURTH JUDICIAL CIRCUIT COURT
IN AND FOR JUAB COUNTY, STATE OF UTAH

| | | |
|-------------------|---|-----------------------|
| THE STATE OF UTAH |) | SPECIAL APPEARANCE |
| Plaintiff |) | |
| |) | REQUEST FOR MOTION |
| VS |) | HEARING AND PRE-TRIAL |
| |) | CONFERENCE |
| |) | |
| RALPH STODDARD |) | Case No. C-TR-930003 |
| Accused |) | Judge Backlund |

COMES NOW the Accused, appearing Specially, not Generally, nor Voluntarily, pursuant to Rule 12 of the Criminal Rules of Procedure, to move the Circuit Court to order a motions hearing to be scheduled prior to trial. The unusual circumstances surrounding this case call for the Court to grant a motions hearing to consider the following matters. The Accused will file the following motions;

1. Motion to Strike Discovery
2. Motion to Strike Information
3. Motion to Dismiss, Unconstitutionality of Statute
4. Motion to Suppress Illegally Obtained Evidence
5. Motion for a Bill of Particulars
6. Motions regarding properly Impaneling the Jurors, obtaining Plaintiff's Juror instructions, etc.

THEREFORE, the Accused demands the relief sought in the interests of justice, as a matter of right, imposing upon the Court its sacred duty to provide due process of law to the Accused.

Dated this 21st day of June, 1993.

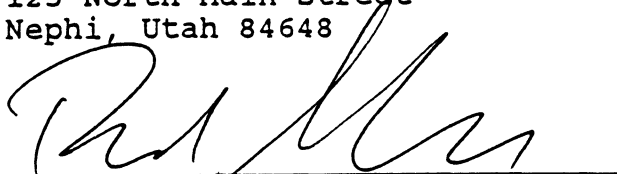
Respectfully Submitted,


Ralph Stoddard

CERTIFICATE OF SERVICE

I, Ralph Stoddard, do hereby certify that on this
21st day of June, 1993, I hand delivered a
true and correct copy of the document-Request for
Motions Hearing and Pre-Trial Conference to:

JUAB COUNTY ATTORNEY'S Office
125 North Main Street
Nephi, Utah 84648


Ralph Stoddard

JUAB COUNTY CIRCUIT COURT
Juab County Courthouse
Nephi, Ut. 84648
Hand Delivered

FILED
IN THE CIRCUIT COURT
JUAB COUNTY UTAH

Ralph H. Stoddard
112 E. 400 S.
Ephraim, Ut.

JUN 24 1993

P.P.G.

Clerk

Deputy

IN THE FOURTH JUDICIAL CIRCUIT COURT

IN AND FOR JUAB COUNTY, STATE OF UTAH

THE STATE OF UTAH
Plaintiff

VS

RALPH STODDARD
Accused

)
) SPECIAL APPEARANCE

)
) REQUEST FOR HEARING

)
) Case No. C-TR-930003

)
) Judge Backlund

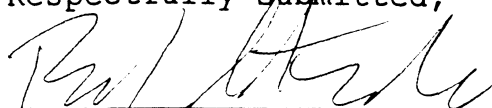
COMES NOW the Accused, appearing Specially, not Generally, nor Voluntarily, pursuant to Rule 12 of the Criminal Rules of Procedure, to move the Circuit Court to order a hearing to obtain rulings on the Accused's Objections to Court proceedings, and a hearing to rule on Accused's challenge to jurisdiction in "res" territorial, "rem" subject matter, and "personam", over the person.

The Accused demands these hearings timely, as a matter of right, and before trial. The Court is so advised to follow proper due process in granting the herein request for Hearing.

THEREFORE, the Accused demands the relief sought in the interests of justice, as a matter of right, imposing upon the Court its sacred duty to provide due process of law to the Accused.

Dated this 24th day of June, 1993.

Respectfully Submitted,


Ralph Stoddard

CERTIFICATE OF SERVICE

I, Ralph Stoddard, do hereby certify that on this
24th, day of June, 1993, I hand delivered a
true and correct copy of the document-Request for
Hearing to:

JUAB COUNTY ATTORNEY'S Office
125 North Main Street
Knife, Utah 84648


Ralph Stoddard

JUAB COUNTY CIRCUIT COURT
Juab County Courthouse
Knife, Ut. 84648
Hand Delivered

Exhibit I

Ralph E. Stoddard
112 E. 400 S.
Ephraim, Ut.

IN THE FOURTH JUDICIAL CIRCUIT COURT
IN AND FOR JUAB COUNTY, STATE OF UTAH

| | | |
|-------------------|---|-----------------------------|
| THE STATE OF UTAH |) | SPECIAL APPEARANCE |
| Plaintiff |) | |
| |) | AFFIDAVIT OF RALPH STODDARD |
| |) | IN SUPPORT OF |
| VS |) | MOTION FOR REVERSAL OF |
| |) | VERDICT, ECT. |
| |) | |
| |) | Case No. C-TR-930003 |
| RALPH STODDARD |) | |
| Accused |) | Judge Backlund |

I, Ralph Stoddard, do depose and state the following:

1. That I am the Accused in the above entitled action.
2. That my appearance is Special, not General, nor Voluntary.
3. That I was present at the trial on Thursday June 24, 1993.
4. That this is testimony that I would give under oath, ie., it would be the same.
5. I feel that Judge Backlund demonstrated extreme bias and prejudice against me in all of the proceedings on this date.
6. He refereed to my case as a "simple and not complicated matter", in front of the jury as well as the statement, "Mr. Stoddard should have taken the offer of the prosecutor." These statements biased the jurors.
7. Judge Backlund used a very harsh, angry, hostile, and unpleasant voice tone in speaking to me or about me.

8. Judge Backlund allowed the proceeding to continue in spite of the fact that I had been given a new amended Information the morning of trial.

9. Judge Backlund would not allow entrance of any evidence favorable to me including a copy of the statute I was charged with in the Information.

10. Judge Backlund did not dismiss any of the jurors for cause demanded by me in spite of the fact that several of the jurors went to the same church(ward) of the prosecutor, one juror worked for the Sheriff's department, one juror was in the Lion's club with the prosecutor, one juror was the High School teacher of the prosecutor, etc...

11. When asked by Judge Backlund if the twelve prospective jurors knew the prosecutor, all the jurors laughed and all raised their hands.

12. I felt like an animal being sent to the slaughter house and feel that there was no semblance of justice in Court this day.

13. The judge read the proposed jury instructions of the prosecutor to the jury, but would not allow my jury instructions to be read.

14. Judge Backlund ruled on my affidavit of bias and prejudice stating, "I have no bias or prejudice against you", and proceeded to adjudicate the case.

15. I was informed that the judge was ill this particular day.

16. I observed the prosecutor enter evidence without presenting it for examination to me prior to entering into

evidence. This evidence was improper with no authentication and was entered into evidence over my vocal objection.

17. I heard Judge Backlund say he would not read my pleadings and ruled on all pleadings without reading them.

18. Judge Backlund would not allow me to have the Court clarify the exact statute I was charged with or argue the elements of said statute.

19. Judge Backlund would not allow me to invoke the exclusionary rule and cross examine the officer to determine probable cause with the jurors sequestered.

20. I feel that Judge Backlund demonstrated extreme bias and prejudice toward me and by his demeanor and posture biased the jurors against me. He committed numerous acts of judicial misconduct. He should disqualify himself from my case.

21. Because of the actions of the Court in the proceedings, and because of my feeling I was being backed into a corner, I moved the Court for a mistrial whereupon the Court got excited and tried to down play the Accused's demand for a mistrial stating their was no reason for said mistrial.

22. I submit this affidavit in "good faith" belief that these actions are improper and should now be properly ruled on as pursuant to Utah Rules of Criminal procedure, Rule 29. Pursuant to this rule, the presiding judge is to rule concerning the legal sufficiency of the affidavit. Also the Court is to follow the rules per the Utah Code of Judicial Administration rule 3-416.

Dated this 3rd day of July, 1993.

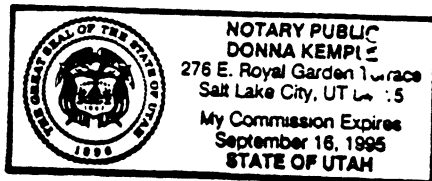
Respectfully Submitted,


Ralph Stoddard

VERIFICATION

STATE OF UTAH)
County of Salt Lake)

On this 3rd day of July, 1993, personally appeared before me Ralph Stoddard, the signer of the above document, who being first sworn did say that the matters and things stated therein are true to the best of his knowledge, information, and belief.




NOTARY PUBLIC

CERTIFICATE OF SERVICE

I, Ralph Stoddard, do hereby certify that on this 3rd, day of July, 1993, I mailed by first class mail, postage pre-paid, a true and correct copy of the document-Affidavit of Ralph Stoddard in Support of Reversal of Verdict etc.

JUAB COUNTY ATTORNEY'S Office
125 North Main Street
Nephi, Utah 84648


Ralph Stoddard

JUAB COUNTY CIRCUIT COURT
Juab County Courthouse
Nephi, Ut. 84648

Exhibit J

FILED
IN THE CIRCUIT COURT
JUAB COUNTY UTAH

Ralph H. Stoddard
112 E. 400 S.
Ephraim, Ut.

Clerk

Deputy

IN THE FOURTH JUDICIAL CIRCUIT COURT
IN AND FOR JUAB COUNTY, STATE OF UTAH

| | | |
|-------------------|---|----------------------|
| THE STATE OF UTAH |) | SPECIAL APPEARANCE |
| Plaintiff |) | |
| |) | OBJECTIONS TO COURT |
| |) | PROCEEDINGS |
| VS |) | |
| |) | |
| RALPH STODDARD |) | Case No. C-TR-930003 |
| Accused |) | Judge Backlund |

COMES NOW the Accused, appearing Specially, not Generally, nor Voluntarily, pursuant to Criminal Rules of Procedure, to object to the Court proceedings at the hearing on June 18, 1993.

FACTS

1. The Accused received notice of transfer of case from the Nephi Justice Court to the Nephi Circuit Court on June 10, 1993.
2. Eight days later on June 18, 1993 the Accused appeared Specially, before Judge John Backlund.

The Accused objects to the following Court procedures.

1. The Accused objects to being rushed to judgement. The Accused stated several times that he was not prepared for trial. The Court set the Trial date for 6 days later on June 24, 1993, over the strenuous objection of the Accused.

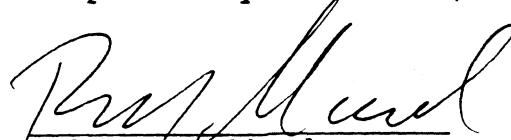
2. The Accused stated that because of the unique circumstances surrounding this case that he needed more time to prepare his defense. Request was denied.
3. In setting trial date, Judge Backlund discussed possible dates in July, then changed his mind and set trial for the earliest date possible on June 24, 1993. He stated that if a trial date were held later, the Accused would move for dismissal due to the speedy trial rule. The Accused offered to waive his speedy trial right. Judge Backlund stated the earlier trial date would stand. The Accused objects to this as being unreasonable and prejudicial.
4. The Accused objects to a denial of a Motions hearing as a matter of right of due process. Judge Backlund denied the Accused's demand for a Motions Hearing.
5. The Accused requested a pre-trial conference pursuant to the Rules to (1) exchange questions asked of the jurors, (2) Oral Voir Dire matters and the empaneling of the jurors, (3) other matters surrounding the Jury Demand. This pre-trial conference request was denied. The Accused objects to the Court's denial of this due process right.
6. The Accused's objects to a hastily prepared Summons served on the Accused on June 18, 1993, as having no return of service, the County Attorney's address at the top (conflict of interest), no case number or statute number referencing the alleged offense, making said summons insufficient on its face, thus the Court still lacks jurisdiction in personam over the Accused.

7. The Accused objects to the Judge's unwillingness to provide due process of law over a Class C traffic matter. The Accused objects to already being guilty of the offense in the Judge's eyes before the proceedings have even started.
8. The Accused objects to being ordered to sit in the Jury box, nor given the opportunity to get a drink of water, while the summons was being prepared. This shows inconsideration on the part of the Judge.
9. The Accused objects to the Judge's refusal to hear the Accused's concerns. Judge Backlund interrupted the Accused several times and stated he did not want to hear any of the issues the Accused wanted to express. Judge Backlund waited in chambers for the summons to be prepared when he could have heard the Accused's concerns.

THEREFORE, the Accused, demands a Dismissal of this action which is in violation of Accused's 1st, 4th, 5th, 9th, 10th, and 14th amendment rights of the Federal Constitution. Also the Accused demands a dismissal of this action because of violation to Accused's State Constitutional rights protected in Article 1 section 4, section 7, section 12, section 13, section 14, section 21, section 22, and section 25.

Dated this 21st day of June, 1993.

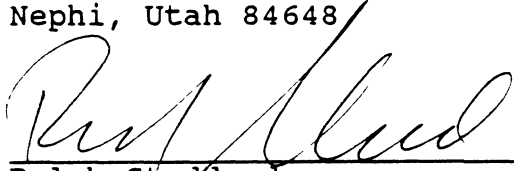
Respectfully Submitted,


Ralph Stoddard

CERTIFICATE OF SERVICE

I, Ralph Stoddard, do hereby certify that on this
21st, day of June, 1993, I hand delivered a
true and correct copy of the document-Objections to
Court proceedings to:

JUAB COUNTY ATTORNEY'S Office
125 North Main Street
Nephi, Utah 84648



Ralph Stoddard

JUAB COUNTY CIRCUIT COURT
Juab County Courthouse
Nephi, Ut. 84648
Hand Delivered

Ralph H. Stoddard
112 E. 400 S.
Ephraim, Ut.

IN THE FOURTH JUDICIAL CIRCUIT COURT
IN AND FOR JUAB COUNTY, STATE OF UTAH

| | | |
|-------------------|---|----------------------|
| THE STATE OF UTAH |) | SPECIAL APPEARANCE |
| Plaintiff |) | |
| |) | OBJECTIONS TO COURT |
| VS |) | PROCEEDINGS-JUDICIAL |
| |) | MISCONDUCT |
| |) | |
| RALPH STODDARD |) | Case No. C-TR-930003 |
| Accused |) | Judge Backlund |

COMES NOW the Accused, appearing Specially, not Generally, nor Voluntarily, for the purpose of offering the following objections to the judicial misconduct that took place during the trial held on June 24, 1993, for the above entitled action.

1. The Accused objects to the fact that the Court chose to move forward in spite of the Accused stating clearly his not being ready for trial. The Accused objects to denial of motion for an enlargement of time.

2. The Accused objects to the Court denying every one of the Accused's motions filed on June 21, 1993, without even reading them. The Accused objects to statement by Judge Backlund that he "was not going to read 50 pages" of the Accused's pleadings.

3. The Accused strenuously objects to the Court proceeding to trial on a new amended Information presented to the Accused on the

morning of trial. The Accused objects to the new amended Information charging the Accused with violating 41-2-104 U.C.A., when the Accused was prepared to defend against another charged offense namely, 41-2-124 U.C.A. These offenses have fundamentally different elements which extremely prejudiced the Accused. This also constitutes surprise further prejudicing the Accused.

4. The Accused objects to being arraigned on the new amended Information offense the morning of trial. The Accused objects to the Court entering a plea for him. When asked how he would plead to the new offense, Judge Backlund practiced law from the bench. The Accused asked what statute he was being charged with and Judge Backlund entered a "not guilty" plea for the Accused.

5. The Accused objects to Judge Backlund ruling on the affidavit of bias and prejudice and not referring to his presiding judge for a ruling.

6. The Accused objects to the Judge denying the Accused to sequester the jurors in oral voir dire. The Accused objects to Court ruling that individual questions to each juror were disallowed and said questions could only be given collectively to the quorum of twelve jurors.

7. The Accused objects to prejudicial statements made to the jurors by Judge Backlund. The Accused objects to statements made to the jury that the trial was 'just a simple case and not a very complicated matter'.

8. The Accused objects to the Court stating in front of the jurors that the Accused should have taken the prosecutor's offer thereby prejudicing the jurors.

9. The Accused objects to the Judge not dismissing the action as the Accused moved for dismissal for failure to impanel a jury due to the fact that all the jurors knew the prosecutor and most were good friends of the prosecutor and all the Court personnel.

10. The Accused objects to the Court's ruling that no jurors were dismissed for cause in spite of substantial grounds obvious to the Court.

11. The Accused objects to a denial for a hearing to argue proposed jury instructions by both parties. The Accused obtained the prosecutor's jury instructions the morning of trial and was denied a motions for a hearing.

12. The Accused objects to Judge Backlund's failure to read the jury instructions submitted by the Accused as he told the Accused in open Court he would do so.

13. The Accused objects to the Court allowing inadmissible evidence shown to jurors over the objection of the Accused when the said evidence entered was not Certified, pursuant to the rules of evidence.

14. The Accused objects to the Court allowing the prosecutor to enter said evidence before allowing the Accused to see the proposed evidence first.

15. The Accused objects to the Court disallowing the Accused to enter any evidence into the record of the trial, including a copy of the statute the Accused was charged with.

16. The Accused objects to the Court's denial of Accused's Motion for Direct Verdict of Acquittal for failure to impanel unbiased jurors. The Accused objects to the Court determining new

elements to the statute and for failure to state which statute he was referring to.

17. The Accused objects the Court proceeding as if it were the Legislature, making up a new statute and then proceeding to adjudicate the case under the guise of this "new statute."

18. The Accused objects to the statute charged as the statute is vague, overbroad, and insufficient on its face.

19. The Accused objects that the behavior he was found guilty of is not prohibited by the statute so charged with.

20. The Accused objects to being denied the right to invoke the exclusionary rule, and to have the jurors sequestered in order to orally voir dire the officer to determine probable cause.


21. The Accused objects to the matter being carried forward to trial in the absence of evidence determining probable cause for the stopping of the Accused's automobile. See State v. Baird

22. The Accused objects to the Court denying him a hearing to obtain rulings on objections properly filed pertaining to the pre-trial hearing on June 18, 1993.

23. The Accused objects to the Court denying all of the motions filed in this case without due process being afforded to the Accused.

Dated this 3rd day of July, 1993.

Respectfully Submitted,


Ralph Stoddard

CERTIFICATE OF SERVICE

I, Ralph Stoddard, do hereby certify that on this
3rd, day of July, 1993, I mailed by first
class mail postage pre-paid a true and correct copy
of the document-Objections to Court proceedings
Judicial Misconduct to:

JUAB COUNTY ATTORNEY'S Office
125 North Main Street
Nephi, Utah 84648



Ralph Stoddard

JUAB COUNTY CIRCUIT COURT
Juab County Courthouse
Nephi, Ut. 84648

Ralph H. Stoddard
112 E. 400 S.
Ephraim, Ut.

IN THE FOURTH JUDICIAL CIRCUIT COURT
IN AND FOR JUAB COUNTY, STATE OF UTAH

| | | |
|-------------------|---|----------------------------|
| THE STATE OF UTAH |) | |
| Plaintiff |) | SPECIAL APPEARANCE |
| |) | |
| |) | OBJECTIONS TO JUDGEMENT/ |
| |) | SENTENCE, MOTION TO |
| VS |) | AMEND/REDUCE AND OR VACATE |
| |) | JUDGEMENT/SENTENCE, AND |
| |) | MEMORANDUM OF POINTS AND |
| |) | POINTS OF AUTHORITIES |
| |) | |
| |) | Case No. C-TR-930003 |
| RALPH STODDARD |) | |
| Accused |) | Judge Backlund |

COMES NOW the Accused, appearing Specially, not Generally, nor Voluntarily, pursuant to Rule 12 of the Rules of Criminal procedure for the purpose of objecting to the judgment/sentence imposed by the Honorable Judge John Backlund in the instant case. In addition, the Accused is moving the Circuit Court pursuant to Rule 22(e) of the Rules of Criminal procedure to amend, reduce, or vacate said judgment/sentence.

Statement of Facts

1. Trial in the above entitled cause was held on June 24, 1993, before the Honorable John Backlund.
2. The Accused was found guilty of a Class C misdemeanor, violating statute 41-2-104 U.C.A. 1953, as amended.
3. Judgment/sentence was imposed by the Honorable Judge

Backlund on July, 16, 1993.

4. The judgement/sentence imposed by Judge Backlund consists of the following;

- A. A fine of \$500 dollars.
- B. 90 days jail suspended upon payment of the fine, \$50 dollars per month starting in August, 1993.
- C. 18 months of Adult probation.

OBJECTIONS/ARGUMENT

The Accused objects to the above judgment/sentence as being excessive, unreasonable, burdensome, unjust for the offense charged, prejudicial, unnecessary, and cruel and unusual punishment.

The fine of \$500 dollars was the maximum fine that could be imposed for a Class C misdemeanor. The Court gave no finding as to the reasoning for such an excessive fine. The Court made no investigation of the Accused's financial situation to determine if the ability to pay the fine was present. The Court made no investigation as to what burden the fine would cause the Accused. Justice Stewart, in a Utah Supreme Court decision, *State v. Peterson*, 681 P.2d 1210 (Utah 1984); cited a case in which the Alaska Court of Appeals remanded a case in which the trial court ordered payment of a \$500 dollar fine because the trial court made no investigation of the defendant's ability to pay the fine. *Manderson v. State, Alaska*, 655 P.2d 1320 (1983). See also *Commonwealth v. Schwartz*, 277 Pa. Super. 112, 418 A.2d 637 (1980) (sentence vacated because trial court did not have information to determine the defendant's ability to pay); *Commonwealth v. Martin*,

233 Pa. Super. 231, 335 A.2d 424 (1975)(fine vacated where trial court did not consider the burden a fine would impose on the defendant).

The Accused objects to a sentence of 90 days in jail as being cruel and unusual punishment, a violation of Article 1 section 9 of the Utah Constitution. The offense in which the Accused was convicted was not a crime against a person, no victim has a claim for reparations, and to impose a 90 day jail sentence is a travesty of injustice, substantially prejudicing the rights of the Accused.

The Accused objects to an 18 month probation as being extremely unnecessary, burdensome, and without just cause. Probation officer's time is needed to assist those who have been convicted of much more serious crimes. Is it general court policy to impose adult probation for individuals convicted on a first offense for a Class C misdemeanor traffic violation?? And to impose probation for an offense for expired drivers license, a offense which absolutely does not in any way affect the health, safety, and welfare of any citizen?? For what substantial reason?? No just cause exists for the imposition of adult probation.

The question the Accused asks-is this standard treatment for this offence in this court? Would a study of the judgment/sentences for this offense reveal similar type judgements for other citizens coming before this court?? The fine to be imposed in the Justice Court prior to the case being transferred to the Circuit Court was \$40 dollars, no jail, and no probation. The conclusion that must be reached is that to demand rights, request due process and proper procedure will result in much more extreme

punishment. Is this the way the judicial process is designed to work??

LAW

1. State v. Peterson 681 P.2d 1210 (Utah 1984).
2. Loane v. State, Crim. App., 490 P.2d 759 (Okla. 1971).
3. Manderson v. State. 655 P.2d 1320 (Alaska 1983).
4. Commonwealth v. Schwartz, 275 Pa. Super. 112, 418 A.2d 637 (1980).
5. Commonwealth v. Martin, 233 Pa. Super, 231, 335 A.2d 424 (1975).
6. Article 1 section 9, Utah State Constitution.


CONCLUSION

The judgement/sentence imposed by the Juab Circuit Court is excessive, demonstrated the bias and prejudice of the Court against the Accused, and unjust for the offence charged. The judgement/sentence is unnecessary, burdensome, and violates Article 1 section 9 of the Utah State Constitution. The Court in imposing said judgement/sentence abused its discretion.

- THEREFORE, -the -Accused- respectfully -moves -the Court to Amend/Reduce or vacate said judgement/sentence in the interests of justice.

Dated this 24th day of July, 1993.

Respectfully Submitted,


Ralph Stoddard

CERTIFICATE OF SERVICE

I, Ralph Stoddard, do hereby certify that on this
24, day of July, 1993, I mailed by first
class mail postage pre-paid a true and correct copy
of the document-Objections to Judgement/Sentence,
Motion to Amend/Reduce and or Vacate
Judgement/Sentence and Memorandum of Points and
Authorities to:

JUAB COUNTY ATTORNEY'S Office
125 North Main Street
Nephi, Utah 84648



Ralph Stoddard

JUAB COUNTY CIRCUIT COURT
160 North Main
Juab County Courthouse
Nephi, Ut. 84648

Exhibit K

IN THE CIRCUIT COURT
JUAB COUNTY UTAH

Ralph H. Stoddard
112 E. 400 S.
Ephraim, Ut.

Clerk

Deputy

IN THE FOURTH JUDICIAL CIRCUIT COURT
IN AND FOR JUAB COUNTY, STATE OF UTAH


| | | |
|-------------------|---|------------------------|
| THE STATE OF UTAH |) | SPECIAL APPEARANCE |
| Plaintiff |) | |
| |) | MOTION FOR ENLARGEMENT |
| VS |) | OF TIME |
| |) | |
| |) | Case No. C-TR-930003 |
| RALPH STODDARD |) | |
| Accused |) | Judge Backlund |

COMES NOW the Accused, appearing Specially, not Generally, nor Voluntarily, pursuant to Rule 12 of the Criminal Rules of Procedure, to move the Circuit Court to order an Enlargement of Time in order for the Accused to prepare for trial. Because of the unusual circumstances surrounding this case, the Accused demands as a matter due process additional time to prepare his defense. The Accused will waive his speedy trial right in order to have more time to prepare.

THEREFORE, the Accused demands the relief sought in the interests of justice, as a matter of right, and due to the fact that it is the duty of the Court that the defendant feel confident and ready for trial.

Dated this 21st day of June, 1993.

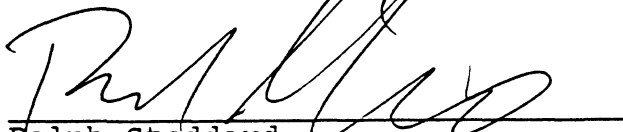
Respectfully Submitted,


Ralph Stoddard

CERTIFICATE OF SERVICE

I, Ralph Stoddard, do hereby certify that on this
21st, day of June, 1993, I hand delivered a
true and correct copy of the document-Motion for
Enlargement of Time to:

JUAB COUNTY ATTORNEY'S Office
125 North Main Street
Nephi, Utah 84648


Ralph Stoddard

JUAB COUNTY CIRCUIT COURT
Juab County Courthouse
Nephi, Ut. 84648
Hand Delivered